

**RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE
PLANT INDUSTRIES**

**CHAPTER 0080-6-1
REGULATIONS GOVERNING NURSERIES DEALERS AND AGENTS**

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0080-6-1-.01 REGULATIONS. These regulations shall apply to all nursery stock as defined in section 2 of the “Tennessee Plant Pest Act 1955”, except such classes of plants or plant material as may be made the subject of special regulations under the authority and provisions of said Act.

Authority: T.C.A. §43-6-104. **Administrative History:** Original rule filed June 5, 1974.

0080-6-1-.02 INSPECTION OF SALES. No nursery stock shall be sold, offered for sale, or transported within or into the State of Tennessee unless it shall have been inspected and the owner of same shall hold a valid certificate affirming said nursery stock to be true to name (scientific and/or approved common name) and to be apparently free of insect pests and plant diseases.

Authority: T.C.A., §§43-6-104 and 43-6-106. **Administrative History:** Original rule filed June 5, 1974. Amendment filed March 15, 1985; effective June 14, 1985.

0080-6-1-.03 APPLICATION. All persons desiring certification of nursery stock shall make application for same to the Director of Entomology and Plant Pathology, Tennessee Department of Agriculture by or before June 1, of each calendar year. Applicants are required to furnish information as to the amounts and kinds of stock for which application for certification is made and locations where such stock is being grown or held. In the case of Native Wild Plants, applicants are required to furnish information as to kinds to be collected and the area from which collections will be made. Applicants must also furnish any other information necessary to work of inspection and certification of their nurseries.

Authority: T.C.A. §43-6-104. **Administrative History:** Original rule filed June 5, 1974.

0080-6-1-.04 INSPECTION OF GROUNDS

- (a) Each nursery shall be inspected by the Director of Entomology and Plant Pathology or his duly designated representative at least once each year and as often as individual circumstances warrant and require. Fields in which nursery stock is being grown shall be maintained essentially free of weeds and grasses. Failure or refusal to maintain fields or blocks in such clean condition shall be grounds for refusal of inspection and certification. It shall be the responsibility of the nursery to furnish adequate lighting for effective inspection in packing sheds, storage areas, or other indoor locations where nursery stock is inspected. Refusal or failure to provide such lighting shall be grounds for refusal of inspection and certification.

(Rule 0080-6-1-.04, continued)

- (b) If the inspection or inspections show that the nursery is essentially free of insect pests and/or plant diseases, a certificate affirming this fact shall be issued. Such certificates shall expire on September 30 of each calendar year. If the inspection or inspections of a nursery shall discover an infestation of an insect pest or plant disease, the infested or infected plant material shall be treated if there be a practical and efficacious treatment, or destroyed, as ordered by the Director of Entomology and Plant Pathology. If the owner of such infested or infected plant material shall neglect or refuse to carry out the order for treatment or destruction, certification shall be refused the entire nursery or, if such nursery shall already hold a certificate, such certificate shall be revoked or suspended. Whenever a certificate has been revoked or suspended, it shall be surrendered immediately to the Director of Entomology and Plant Pathology or his duly designated representative on written order signed by said Director of Entomology and Plant Pathology.
- (c) The range from which all Native Wild Plants are collected shall be inspected during the growing season. The plants actually collected and sold or offered for sale shall also be inspected at the time of packing and shipping. In the event these inspections shall indicate apparent freedom from dangerous plant pests and diseases, a certificate affirming this fact shall be issued. This certificate shall expire on September 30 of each calendar year. The certificate issued on Native Wild Plants shall be separate and distinct from that issued on stock that is nursery grown.

Authority: T.C.A. §43-518. **Administrative History:** Original rule filed June 5, 1974.

0080-6-1-.05 TAGS FOR PLANTS

- (a) All nursery stock shipped, sold or delivered or transported for sale or delivery in this State shall have affixed to each package, or to each plant when sold or delivered without packaging, a tag which shall bear a copy of the valid certificate covering such stock.
- (b) In the event both Native Wild Plants and nursery grown plants are included in the same package, or lot, if delivered unpacked, the Native Wild Plants and the nursery grown plants must be tagged separately and a tag for each of the two classes of stock must be securely attached to the outside of each package.
- (c) All nursery tags printed under the provisions of this regulation must be printed on the same color paper as that used for the original certificate. These tags shall expire on the same date as the certificates under which they are printed unless such certificates shall be revoked or suspended prior to that date. In case of revocation or suspension of certificates, all tags shall be immediately surrendered to the Director of Entomology and Plant Pathology or his duly authorized representative on written order signed by said Director of Entomology and Plant Pathology. Use of tags beyond their expiration date shall be a violation of these regulations.

Authority: T.C.A. §43-518. **Administrative History:** Original rule filed June 5, 1974.

0080-6-1-.06 STORING OF STOCK. All nursery stock sold, traded, or delivered in this State or shipped or delivered into this State shall be viable, and shall be stored, packed, and handled in such way as to give reasonable assurance of such stock being in living condition when delivered to the ultimate purchaser. In addition, such stock must be truthfully labeled.

Authority: T.C.A. §43-518. **Administrative History:** Original rule filed June 5, 1974.

0080-6-1-.07 CERTIFICATES. It shall be illegal for any person to engage in the business of nursery dealer without first having secured a nursery dealer's certificate from the Tennessee Department of Agriculture. Such certificate shall be issued on application when applicant has affirmed that all nursery stock handled will have been secured from a source holding a valid certificate issued by the proper official of this State or other state or states, and when such applicant has furnished to the Director of Entomology and Plant Pathology a list of such certified sources from which he proposes to secure nursery stock. It shall be the responsibility of the nursery dealer holding a certificate under these regulations to maintain such records as are necessary to demonstrate that stock sold, displayed for sale, held, or transported was in fact secured from such stipulated certified sources. Stock being moved by means other than by common carrier and not packaged shall be accompanied by an itemized sales invoice showing the source of acquisition.

Authority: T.C.A. §43-518. Administrative History: Original rule filed June 5, 1974.

0080-6-1-.08 NEED TO REGISTER

- (a) It shall be illegal for any person to engage in business as a nursery agent without having first registered with the Tennessee Department of Agriculture. Such registration will become valid when the employing nursery or firm furnishes the Tennessee Department of Agriculture the name and address of each prospective agent and an accompanying statement affirming that such person is authorized and empowered to represent the nursery or firm, and further, that the nursery or firm is bound by contracts for sales and delivery of nursery stock made by the agent on their behalf.
- (b) Such registration shall expire on September 30 of each year.

Authority: T.C.A. §43-518. Administrative History: Original rule filed June 5, 1974.

0080-6-1-.09 OUT-OF-STATE DEALERS

- (a) A certificate may be issued to out-of-state nurseries producing or contracting for the production of nursery stock in this State upon the condition that a bona fide branch office is maintained in this State.
- (b) If there is a failure to comply herewith, the person or corporation located in this State having charge of and producing nursery stock for out-of-state persons or firms must procure a certificate for such operation.

Authority: T.C.A. §43-518. Administrative History: Original rule filed June 5, 1974.

0080-6-1-.10 SEIZURE OF STOCK. Nursery stock found to be infested or infected by an insect pest and/or plant disease while being moved in, into, or from the State, or being moved in violation of any section of the "Plant Pest Act of 1955" or any of the registrations promulgated thereunder shall be seized by the Director of Entomology and Plant Pathology. The owner of such seized stock will be given the option of having the stock treated at his expense, if a treatment can be given that, in the judgement of the Director of Entomology and Plant Pathology will be effective in removing any hazard of spread of insect pests and/or plant diseases, or having the stock returned to him, at his expense, if the same shall have originated outside of this State or destroyed. It shall be illegal for the owner, consignor, consignee, carrier or other person to move or deliver such seized stock until it is released by the Director of Entomology and Plant Pathology or his representative

Authority: T.C.A. §43-6-104. Administrative History: Original rule filed June 5, 1974.

0080-6-1.11 REVOCATION OF RULES. All Rules and Regulations heretofore promulgated on this subject are hereby rescinded revoked and suspended

Authority: T.C.A. §43-6-104. *Administrative History:* Original rule filed June 5, 1974.

0080-6-1.12 INTERFERENCE WITH DUTIES. It shall be illegal for any person or firm to interfere with an authorized representative of the Tennessee Department of Agriculture in the performance of their duties.

Authority: T.C.A. §§43-6-104 and 43-6-105. *Administrative History:* Original rule filed March 12, 1993; effective June 29, 1993.

0080-6-1.13 VIOLATION OF QUARANTINE. It shall be illegal for any person or firm to violate a plant quarantine or compliance agreement to which the Tennessee Department of Agriculture is a party.

Authority: T.C.A. §§43-6-104; 43-6-106 and 43-6-109. *Administrative History:* Original rule filed March 12, 1993; effective June 29, 1993.

0080-6-1.14 MOVEMENT OF STOCK. It shall be illegal for any person or firm to move soil, live organisms or other material capable of harboring plant disease or insect pests without a certificate or permit from the Tennessee Department of Agriculture.

Authority: T.C.A. §§43-6-104 and 43-6-106. *Administrative History:* Original rule filed March 12, 1993; effective June 29, 1993.

0080-6-1.15 INFESTED MATERIALS. It shall be illegal for any person or firm to sell or offer for sale plant materials, soil or other materials apparently infested by plant diseases and/or insect pests.

Authority: T.C.A. §§43-6-104 and 43-6-106. *Administrative History:* Original rule filed March 12, 1993; effective June 29, 1993.